IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.432 OF 2006
IN
WRIT PETITION NO.2360 OF 2002

The Managing Director,
National Textile Corpn.(MN) Ltd. ....Appellant

V/s.

C.R. Dhuru & Ors. ....Respondents

Mr.Abhay Nevagi i/b Paras Kuhad Associates for the Appellant.

Mr.N.M. Ganguli for Respondent Nos. 1 and 3.

CORAM : DR.S. RADHAKRISHNAN &
S.J. VAZIFDAR, JJ.
DATED : 19TH JULY, 2006.

P.C. :

1. Heard the learned counsel for the Appellant and the learned counsel for the Respondents.

2. The Appeal is admitted. The learned counsel for Respondent Nos.1 and 3 waives service. By consent of the parties, the Appeal is taken up for final hearing.

3. By this Appeal, the Appellant - NTC is challenging the judgment and order dated 12.4.2006

whereby the learned Single Judge has held that the Appellant - employer could not have reduced the age of retirement to 58 years when the employees had specifically opted "as far as superannuation is concerned, they will continue to take the benefit of the superannuation age as prevailing at the time of their employment" and at that time the age of superannuation was 60 years.

4. The learned counsel appearing for the Appellant pointed out that when the matter was finally heard before the learned Single Judge, the Appellant - employer had failed to bring it to the notice of the learned Single Judge, the Division Bench judgment of our High Court taking a contrary view, being the judgment dated 14.2.2003 in Writ Petition No.6898 of 2000.

5. In view of the same, the learned counsel for the Respondents also has no objection for setting aside judgment and order of the learned Single Judge and remanding back Writ Petition No.2360 of 2002 to be heard afresh strictly on its own merits and in accordance with law. In view thereof, the judgement and order dated 12.4.2006 passed by the learned Single Judge in Writ Petition No.2360 of 2002 stands set-aside

and Writ Petition No.2360 of 2002 stands restored to file before the learned Single Judge for being heard afresh strictly on its own merits and in accordance with law.

6. Needless to state that both the parties are at liberty to file their additional affidavits before the learned Single Judge.

7. Appeal stands disposed of accordingly.

(DR.S. RADHAKRISHNAN, J.)

S.J. VAZIFDAR, J.)